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# **Audit of the Workers' Compensation Payment Process in State Agencies**

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawaii

Report No. 01-03  
February 2001



**THE AUDITOR**  
STATE OF HAWAII

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## Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. *Analyses of proposed special funds* and existing *trust and revolving funds* determine if proposals to establish these funds are existing funds meet legislative criteria.
7. *Procurement compliance audits* and other *procurement-related monitoring* assist the Legislature in overseeing government procurement practices.
8. *Fiscal accountability reports* analyze expenditures by the state Department of Education in various areas.
9. *Special studies* respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



### THE AUDITOR STATE OF HAWAII

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# OVERVIEW

## ***Audit of the Workers' Compensation Payment Process in State Agencies***

Report No. 01-03, February 2001

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### **Summary**

Hawaii's workers' compensation law was established to provide benefits in a prompt and accurate manner to employees who sustain a work-related injury or illness. Over the years, numerous concerns have been raised about the State's administration of workers' compensation claims for its own employees. Because of these concerns and problems, the Office of the Auditor initiated this review of the workers' compensation payment process in state agencies.

The Department of Labor and Industrial Relations has the overall responsibility of administering the workers' compensation law including its effective execution and supervision of prompt and accurate compensation payments. Workers' compensation claims are managed by in-house staff of the employing agency, the State Workers' Compensation Division of the Department of Human Resources Development, or a private company employed to manage claims. In FY1998-99, the State had approximately 3,100 open claims with payments related to these claims totaling over \$33,000,000.

Our review focused on the four state agencies with the largest number of open workers' compensation claims: the Department of Human Resources Development, the Department of Education, the University of Hawaii, and the Judiciary. Together, these four agencies represent about 97 percent of the State's total number of open claims.

We found that workers' compensation benefits are neither timely nor accurate. We found delays in each step of the workers' compensation claims process. For example, fifty percent of the injury reports (WC-1) we reviewed were filed an average of 25 days after they were due. Moreover, disability payments were late in 65 percent of the cases we reviewed for an average delinquency of about eight months. In one case, a claimant from the Department of Education waited for over 14 years to have her disability payment processed.

We also found errors and discrepancies in disability calculations for 36 percent of the cases we reviewed. At the Department of Human Resources Development, some of these errors resulted in overpayments of \$520 and \$155 to the claimants. Payments for disability also remained outstanding long after being authorized by the workers' compensation office. At the Department of Education, we found a total of \$133,000 in unprocessed disability payments. In one case, the claimant was waiting for over \$40,000 in disability payments while another claimant was due over \$14,000. When we brought the outstanding cases to the attention of the department, we noted that three of the claimant's disability payments were processed the next day.



Finally, we found that payments for claimants' medical services exceeded allowable amounts. Based on work performed by our consultant, ADP Integrated Medical Solutions, we found that the agencies we reviewed overpaid medical bills by \$30,871 or 56 percent of a sample of 108 bills reviewed.

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## Recommendations and Responses

We recommended that state workers' compensation managers improve their claims management to ensure the timely and accurate payment of benefits to injured state employees. We also recommended that the Department of Labor and Industrial Relations 1) address delays in processing workers' compensation payments by reducing the amount of time to schedule administrative hearings and issue decisions; 2) seek an amendment to Section 386-95, HRS, to require workers' compensation annual reports to be filed by January 31<sup>st</sup> of the next year after the calendar year has ended; 3) establish a system to identify violations of Chapter 386, HRS, and 4) monitor and assess penalties to ensure compliance with the workers' compensation law.

The Department of Human Resources Development agreed with some of our findings and disagreed with others. The department disagreed with our finding that temporary disability payments were late. The department also disagreed with our finding regarding errors and discrepancies in disability payments and overpayments for medical services.

The Department of Labor and Industrial Relations did not agree with our finding that hearing decisions were issued late.

The Department of Education did not specifically respond to our findings. Instead, the department cited initiatives the department is undertaking to improve on its management of workers' compensation claims.

The University of Hawaii also did not respond directly to any of our findings. Instead, it offered several points of clarification on some of the findings and conclusions in our report.

The Judiciary agreed with some of our findings but not others. The Judiciary did not elaborate nor provide a response to the findings with which it disagreed.

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Submitted by

**THE AUDITOR**  
STATE OF HAWAII

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## Foreword

This is a report of our audit of the workers' compensation payment process in state agencies. This audit was performed pursuant to Section 23-4, Hawaii Revised Statutes, which authorizes the Auditor to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions.

We wish to express our appreciation for the cooperation and assistance extended during the course of the audit by officials of the Department of Human Resources Development, the Department of Labor and Industrial Relations, the Department of Education, the University of Hawaii, and the Judiciary.

We also wish to thank Automatic Data Processing Integrated Medical Solutions, an independent consultant that assisted us in the audit.

Marion M. Higa  
State Auditor

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# Chapter 1

## Introduction

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Hawaii's workers' compensation law was established to provide benefits in a prompt and accurate manner to employees who sustain a work-related injury or illness. Over the years, numerous concerns have been raised about the State's administration of workers' compensation claims. In particular, the timeliness and accuracy of workers' compensation payments to state employees have been recurring problems. Because of these concerns and problems, the Office of the Auditor initiated this audit to examine the workers' compensation payment process in state agencies. This audit was performed pursuant to Section 23-4, Hawaii Revised Statutes (HRS), which authorizes the Auditor to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions.

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## Background

Hawaii enacted its first workers' compensation law in July 1915. The workers' compensation law required employers to provide certain benefits to injured employees without regard to the fault of the employer and prohibited an employee from filing civil actions against his/her employer for work-related injuries or illnesses. This law covered all workplace accidents except those caused by willful acts to hurt oneself or intoxication. The workers' compensation law was Hawaii's first "no fault" legislation in which blame is not a factor.

### ***Elements of the workers' compensation law***

The workers' compensation law codified under Chapter 386, HRS, provides medical, rehabilitation, income, and indemnity benefits to workers suffering from work-related injuries. In a work-related death, income and indemnity benefits are provided to the employees' dependents. The law covers both the public and private employment sectors.

Any employer, including state and county governments, employing one or more workers is required to provide workers' compensation coverage. The law requires employers or a special compensation fund to pay an employee or dependents for personal injury suffered from an accident arising "out of and in the course of employment" or from disease "proximately caused by or resulting from the nature of employment." Compensation is not allowed for injury incurred by an employee willfully intending to hurt himself or others by engaging in an unprovoked and non-work related physical altercation or by an injury

due to an employee's intoxication. In addition, Chapter 386 does not allow claims for mental stress resulting solely from disciplinary action taken in good faith by the employer.

### **Benefit provisions under the law**

Workers' compensation provides for claimants with permanent or temporary, total or partial disability. Benefits for permanent total disability equal 66.67 percent of whichever is lower—the worker's average weekly wage or the State's average weekly wage. Permanent total disability includes such injuries as total loss of sight in both eyes, the loss of both feet and both hands, or an injury to the skull resulting in incurable imbecility or insanity. Temporary total disability is not permanent in character but causes total disability that diminishes the employee's capacity for work.

Claimants with permanent partial disability, which includes injuries such as the loss of a finger, hand, eye, or leg, are provided with the effective maximum benefit rate (state average weekly wage) multiplied by the number of weeks specified by statute for the injury type. For claimants with temporary partial disability, workers' compensation provides weekly benefits equal to 66.67 percent of the difference of wages before and after the injury, subject to maximum and minimum rates as prescribed by law.

The state average weekly wage is set by the director of labor and industrial relations in accordance with Section 383-22 (Employment Security Law), HRS. The state's average weekly wage for calendar year 2000 was \$529.

Other workers' compensation benefits can include the payment of medical costs (as set by the labor department's medical fee schedule), death, disfigurement, and vocational rehabilitation costs.

### ***Administration of Chapter 386, HRS***

The labor department has the overall responsibility of administering the workers' compensation law. Section 386-71, HRS, places the director of the labor department in charge of all matters of administration pertaining to the operation and application of the law. The director is responsible for the efficient execution of the law and in particular the supervision of prompt and accurate compensation payments.

The labor department's Disability Compensation Division records and adjudicates workers' compensation claims from both public and private sector employees. The division does not conduct any activities related to the filing and processing of claims. Rather, the division administers workers' compensation contested claims hearings, cost reviews, enforcement activities, records and claims, and vocational rehabilitation activities.

## ***Management of workers' compensation claims***

Prior to 1985, each department within the executive branch managed its own workers' compensation claims. However the 1984 Legislature, through Act 285, established a centralized program unit under the State Workers' Compensation Division within the Department of Human Resources Development (DHRD). The State Workers' Compensation Division manages workers' compensation claims for a majority but not all of the executive branch departments and agencies. The division also administers funds appropriated for paying benefits to certain federal funded employees.

The State Workers' Compensation Division manages claims for all state agencies (commonly referred to as centralized agencies) with the exception of the following agencies:

- University of Hawaii\*,
- Department of Education,
- Department of Human Services,
- Judiciary,
- Hawaii Health Systems Corporation,
- Housing and Community Development Corporation of Hawaii,
- Research Corporation of the University of Hawaii, and
- Office of Hawaiian Affairs.

\* Although the University of Hawaii is considered a non-centralized agency, DHRD does manage a portion of the workers' compensation cases.

The agencies listed above are commonly referred to as non-centralized agencies because their claims are managed by an independent carrier, third party administrator, or in-house staff rather than the State Workers' Compensation Division.

The State Workers' Compensation Division manages around 1,600 claims statewide for centralized agencies. For FY1998-99, state employees filed a total of 2,658 claims and had 3,149 open claims. An "open claim" is a claim pending determination of compensability or compensation; an open claim is also one in which medical or other payments are currently being made. Exhibit 1.1 displays a breakdown of new and existing workers' compensation claims for FY1998-99 as distributed among non-centralized and centralized state agencies.

### **Processing a claim for payment**

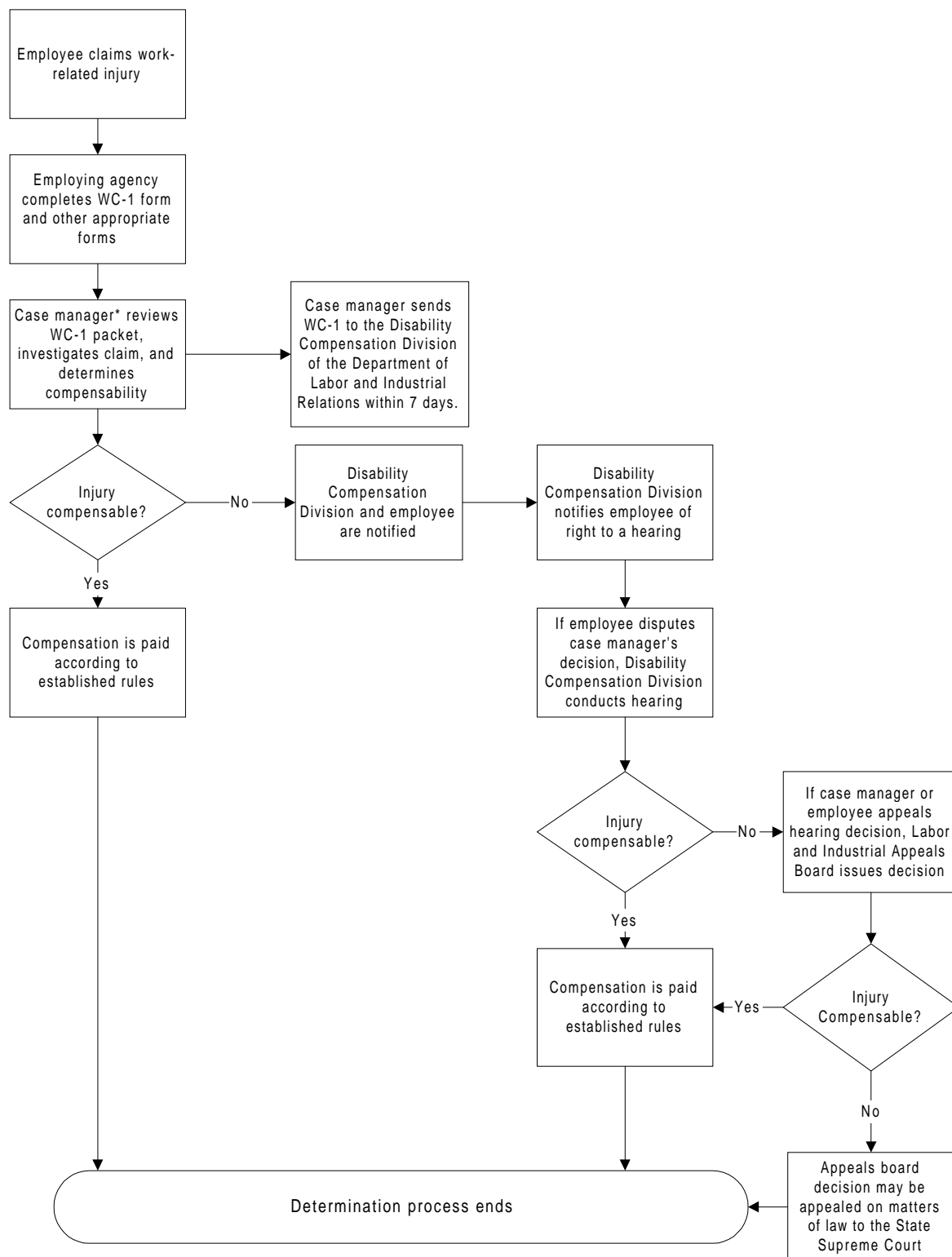
Processing a workers' compensation claim typically begins with an employee's report of a work-related injury. The employer is then responsible for filing a claim with the labor department. The claim is then assigned a case manager to determine "compensability," meaning

**Exhibit 1.1****State Government Workers' Compensation Claims Filed and Open Cases for FY1998-99 as Distributed Among Non-centralized and Centralized State Agencies**

<b>Agencies</b>	<b>Total No. of Claims Filed FY1998-99</b>	<b>Total No. of Open Cases FY1998-99</b>
<b>Non-centralized Agencies</b>		
Department of Education	1,188	1,248
University of Hawaii	196	370
Hawaii Health Systems Corporation	195	54
Department of Human Services	77	17
Research Corporation of the University of Hawaii	60	13
Housing and Community Development Corporation of Hawaii	32	5
Judiciary	39	105
Office of Hawaiian Affairs	4	4
<b>Total Non-centralized Agencies</b>	<b>1,791</b>	<b>1,816</b>
<b>Centralized Agencies</b>		
Department of Transportation	267	338
Department of Health	206	323
Department of Public Safety	164	310
Department of Land and Natural Resources	74	85
Department of Accounting and General Services	65	104
Department of Agriculture	26	30
Department of Labor and Industrial Relations	20	29
Department of the Attorney General	11	33
Department of Defense	9	26
Department of Business, Economic Development & Tourism	6	14
Department of Budget and Finance	5	13
Department of Taxation	5	6
Department of Commerce & Consumer Affairs	4	8
Office of the Governor	4	5
Department of Hawaiian Home Lands	1	3
Department of Human Resources Development	0	3
Office of the Lieutenant Governor	0	3
<b>Total Centralized Agencies</b>	<b>867</b>	<b>1,333</b>
<b>GRAND TOTAL</b>	<b>2,658</b>	<b>3,149</b>

Source: Department of Human Resources Development and select state agencies.

Note: University of Hawaii claims are managed by both DHRD and Constitution State Services Company (CSSC). CSSC manages claims arising from injuries occurring after July 1, 1999, while DHRD manages claims arising from injuries which occurred prior to July 1, 1999.

**Exhibit 1.2****Processing Flow of a State Employee's Workers' Compensation Claim**

\*The case manager, or workers' compensation manager, may be a staff person of the employing agency, the State Workers' Compensation Division of the Department of Human Resources Development, a third party administrator, or a private company employed to manage claims.

that the injury is work-related and therefore compensable. Case managers are either from the State Workers' Compensation Division for centralized agencies or from the non-centralized agency workers' compensation or personnel offices. In some cases, non-centralized agencies (such as the University of Hawaii, Hawaii Health Systems Corporation, Housing and Community Development Corporation of Hawaii, Research Corporation Of the University of Hawaii, and Office of Hawaiian Affairs) contract with private carriers or third party administrators to manage their workers' compensation claims.

If compensability is determined and accepted, the claim is paid. If compensability is denied, the case manager has 30 days in which to conduct an investigation and report any findings to the director of labor. The employee can dispute the denial of a claim through an administrative hearing at the labor department's disability compensation division, then through the labor appeals board, and finally, an appeal to the State Supreme Court. Exhibit 1.2 provides a flowchart of the basic steps involved in the processing of a workers' compensation claim.

***Recent workers' compensation appropriations, expenditures and claims***

Appropriations for workers' compensation claims in program ID HRD 102 (workforce attraction, selection, classification, and effectiveness) have decreased significantly over the past five fiscal years. In FY1999-00, the Department of Human Resources Development was appropriated \$4,993,726 for workers' compensation claims for centralized state agencies. This amount was about 75 percent less than the \$19,875,709 appropriation received in FY1995-96. This significant decrease was primarily due to the reduced number of workers compensation claims filed and the transfer of funds from the Department of Human Resources Development to the University of Hawaii, Department of Education, and Judiciary. These three non-centralized entities pay their own workers' compensation claims with transferred funds. Exhibit 1.3 displays the appropriations received by DHRD for the payment of workers' compensation claims for the past five fiscal years.

**Exhibit 1.3  
Department of Human Resources Development Appropriations for  
Workers' Compensation FY1995-96 to FY1999-00**

	FY1995-96	FY1996-97	FY1997-98	FY1998-99	FY1999-00
Appropriation for workers' compensation claims	\$19,875,709	\$21,698,631	\$6,490,773	\$5,421,784	\$4,993,726

Expenditures for workers' compensation for state employees have steadily decreased over the past five fiscal years. In FY1994-95, the State spent a total of \$42,891,520 on workers' compensation claims for state employees. This number decreased to \$33,985,062 in FY1998-99. Exhibit 1.4 presents recent total expenditures for state employee workers' compensation claims.

#### **Exhibit 1.4**

### **State Government Workers' Compensation Expenditures from FY1994-95 to FY1998-99**

	FY1994-95	FY1995-96	FY1996-97	FY1997-98	FY1998-99
Total Workers' Compensation Expenditures	\$42,891,520	\$42,544,912	\$36,207,804	\$35,043,495	\$33,985,062

Source: Department of Accounting and General Services, Accounting Division.

The total number of claims for workers' compensation has also decreased over the past five years. During calendar year 1994, a total of 5,314 workers' compensation cases with costs (including both new and existing cases) were processed by the labor department. This figure decreased by about 15 percent to 4,516 processed cases during calendar year 1998.

### **Objectives of the Audit**

1. Assess the timeliness and accuracy of the State's processing of workers' compensation payments.
2. Assess the State's management of workers' compensation payments.
3. Make recommendations as appropriate.

### **Scope and Methodology**

This audit focused on the State's timely and accurate processing of workers' compensation claims and payments to its employees. We examined the policies, procedures, practices, and processes involved in the determination of benefits as well as timely payments. Our review focused on the four state agencies with the largest number of open claims: Department of Human Resources Development, Department of Education, University of Hawaii, and the Judiciary. Together these four state agencies represent about 97 percent of the State's total number of open claims.

We reviewed Chapter 386, HRS (workers' compensation), pertinent administrative rules of the Department of Labor and Industrial Relations, agencies' mission and functional statements, governor's directives related to workers' compensation, and other studies and reports dealing with the administration of the workers' compensation payment system.

We also contacted national organizations for information pertaining to the administration of workers' compensation. These organizations included the National State Auditors Association, the National Conference of State Legislatures, the National Association of Insurance Commissioners, the National Council on Compensation Insurance, and the International Association of Industrial Accidents Boards and Commissions. These organizations provided background information on workers' compensation statistics, issues, systems, and standards.

Fieldwork included interviews with administrators and staff from all state agencies involved with workers' compensation. We also interviewed representatives from the Department of Accounting and General Services and the Department of Labor and Industrial Relations.

We examined a scientific sample of workers' compensation claims from the Department of Human Resources Development, Department of Education, University of Hawaii, and Judiciary. Our sample included a total of 178 claims from the four agencies. We used an 85 percent confidence level with a .10 precision rate and 40 percent error rate to select the sample. That is to say, if we were to choose a random sample of claims 100 times, we are 85 percent confident that we would achieve the same results with a variance of plus or minus 10 percent. In addition, we judgmentally selected claims from our sample to test selected attributes of the workers' compensation process. The scope of our sample covered all open claims from 1995 to the present. The purpose of the sample was to assess the timeliness and accuracy of state workers' compensation payments and compliance with the law.

We also engaged the services of a consultant, Automatic Data Processing Integrated Medical Solutions, to conduct an audit of medical bills for the four agencies included in our sample.

Our work was performed from January 2000 through September 2000 in accordance with generally accepted government auditing standards.



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# Chapter 2

## State Workers' Compensation Payment Process Suffers From Delays and Errors

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Hawaii's workers' compensation law was established to provide employees with compensation and certain benefits for a work-related injury or illness. Employers or independent carriers are required by law to compensate employees injured on the job in a timely and accurate manner. The State of Hawaii also has this responsibility as an employer of approximately 65,000 persons.

However, state benefits are neither timely nor accurate. We found delays in each step of the workers' compensation claims process. Many of the delays violated state law and exposed the State to liability for non-compliance. We also found that the State has not exercised sufficient controls to ensure the prompt and accurate payment of benefits. Errors have occurred in calculating benefits; authorized payments remain outstanding; and payments for medical services exceeded allowable amounts. These problems illustrate that employees' rights to timely and accurate compensation are not being upheld.

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### Summary of Findings

1. The state workers' compensation payment process is mired in delays. Violations of the workers' compensation law exist at every step in the claims process and result in untimely payment of benefits.
2. State workers' compensation case managers have not exercised sufficient controls to ensure the prompt and accurate payment of disability compensation.

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### Delays in Claims Processing Hamper Timely Benefit Payments

In our review of claims processing, we examined a sample of 178 workers' compensation claims from four state agencies: the University of Hawaii, the Judiciary, the Department of Education, and the Department of Human Resources Development. The Department of Human Resources Development manages claims for other state agencies including a portion of the University of Hawaii. These agencies also report the largest number of open claims. When combined, these agencies account for about 97 percent of the open workers' compensation claims for state agencies.

We found delays in the processing of workers' compensation claims that resulted in late payments of benefits. Injury reports were not filed within

the required time, and the investigations of denied claims were excessively lengthy. The hearing process for denied workers' compensation claims was also extensive and decisions were not always timely. We also found that compensation payments to claimants were frequently late, including mandated reports that state agencies were required to submit.

***Injury reports are not filed in a timely manner***

The first step in the workers' compensation process is the filing of a report of industrial injury, a WC-1, by the employer with the labor department. The WC-1 contains important information about the employee's work-related injury/illness such as the injured employee's name, details of the injury or illness, time lost information, treating physician, and insurance. Section 386-95 requires the employer to submit a report to the labor department within seven working days after knowledge of a work-related injury. The injury must have resulted in the absence from work of more than one day or required medical treatment beyond ordinary first aid.

Timely injury information from agency employees is needed by case managers so that they can complete and submit the WC-1 report within the seven-day requirement.

In our review of filed claims, we found numerous examples of state agencies that were not reporting work-related injuries and illnesses to the labor department in a timely manner. From our sample of claims from the four agencies under review, WC-1 reports were submitted late half of the time. The Judiciary's submissions were late about 85 percent of the time while the Department of Education submitted late WC-1 reports about 33 percent of the time. Exhibit 2.1 displays the results of our sample.

**Exhibit 2.1  
Late Submission of Workers' Compensation Injury Reports  
(WC-1) FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late	Average Delinquency
Department of Education	49	16	33%	24 days
Department of Human Resources Development	48	28	58%	22 days
Judiciary	34	29	85%	21 days
University of Hawaii	42	14	33%	40 days
Total	173	87	50%	25 days

Note: Total average delinquency is the sum of the total number of days WC-1 reports were delinquent divided by the total number of occurrences.

Some injury reports that we reviewed were filed over three months after their required due dates. In one case, the University of Hawaii submitted an initial injury report 272 working days after its due date. Workers' compensation case managers report that delays in filing WC-1 reports occur because the line agencies, where injuries took place, do not forward injury reports for case managers to process in a timely manner. Many of the WC-1 reports that we examined were submitted well after the required seven working days filing period had elapsed.

Late WC-1 reports affect the timely processing and payment of disability benefits. Delays add financial hardship to an employee's already injury-aggravated condition. Delays lower employee morale. Delays can also distort the accuracy of statistics and data used by the labor department to report statewide information on work related injuries and illnesses.

Line agencies and case managers need to file injury reports (WC-1's) in adherence to Section 386-95, HRS. They need to reduce their delays.

### ***Investigations of denied claims are lengthy***

Hawaii Administrative Rules require that employers who deny compensability for a claim submit a written report to the director of labor and the injured employee within thirty days. Failure to submit a written report results in the acceptance of the injury by the employer. The director may grant extensions for the filing of this report based on good cause.

We reviewed claims initially denied by the employer to determine if an investigation report was submitted within 30 calendar days or whether an extension of time was granted to the employer to complete the investigation. As shown in Exhibit 2.2, investigations of denied claims often exceeded the 30-day requirement. From our sample, filed denied claim reports from the Department of Human Resources Development were about 42 percent late while the University of Hawaii had no late reports.

### **Exhibit 2.2 Review of Late Claim Denial Reports, FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late
Department of Education	7	2	28%
Department of Human Resources Development	12	5	42%
Judiciary	13	2	15%
University of Hawaii	8	0	0%
Total	40	9	22%

At the Department of Education, we found an extreme case of an open claim that was still pending completion of an investigation and denial report over 18 months after the initial claim was denied. In other claims, we found denial reports that were submitted over three months after the claim was initially denied. Although administrative rules allow extensions for good cause, we noted that several claims did not request extensions or requested extensions after the initial 30-day period had elapsed.

Workers' compensation case managers say that delays exist in the investigation of claims for various reasons. However, a major delay is attributed to the lengthy process in obtaining medical reports, examinations, and evaluations before a claim can be denied or accepted. Managers may have good reasons for delays and administrative rules provide for extensions; however, as noted previously, in many cases extensions were not requested in time or not requested at all.

Correspondingly, extended investigation periods also delay the workers' compensation payment process. This can negatively affect the financial well-being of a claimant since delays in processing claims result in benefits not being received when they should. In addition, delays in processing payments also deny claimants of possible income tax savings. Workers' compensation payments are generally not taxable for state and federal income tax purposes.

Workers' compensation managers need to be more timely in their investigation efforts and adhere to the 30-day requirement for filing denial reports; otherwise they should request extensions. Failure to file these reports with the labor department violates administrative rules and exposes the State to unnecessary liability. Managers' requests for legitimate extensions of time should be executed prior to the 30-day requirement in consideration of the claimants' need to expeditiously resolve the costs of injury.

***Hearing process is also  
extensive and decisions  
are not issued on time***

If an injured employee is not satisfied with the results of his/her workers' compensation claim, Section 386-86 provides for an administrative hearing process with the labor department's Disability Compensation Division. The division further investigates the denied claim and renders a decision within 60 days following the conclusion of the hearing.

In our review of workers' compensation claims, we found that the labor department's division has not been timely in hearing contested claims and in rendering its decisions. Our sample of claims reviewed at both the division and at the four agencies revealed that decisions were not issued within the mandatory 60 days after the hearings. Exhibit 2.3

shows the number of late decisions issued by the Disability Compensation Division. The division made late decisions for about 18 percent of the claims we sampled.

**Exhibit 2.3**  
**Hearing Decisions Issued Late by the Disabilities**  
**Compensation Division, FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late
Department of Education	0	0	0%
Department of Human Resources Development	8	1	13%
Judiciary	1	0	0%
University of Hawaii	2	1	50%
Total	11	2	18%

In a separate test of randomly selected hearings, we reviewed decisions from 25 hearings conducted in the past five years for timeliness. We found that decisions were late approximately 28 percent of the time in the hearings we sampled. In one case, a decision was issued over one month beyond the 60-day period. We also found delays in the scheduling of hearings after the division staff determined the case ready for hearing. Of the 25 hearings on cases we reviewed, we found delays of three months or more in about 20 percent of those cases. A labor department official reported that delays have been significantly reduced but further improvements are needed. According to this official, the department now takes about three to four months to conduct a hearing in contrast to the 12-18 months it took to hear cases four years ago.

The labor department also reports that it has improved its efforts to gather claim information to prepare cases for a hearing. However, it also reports that delays easily occur in scheduling the hearings because certain required reports are not available to render a claim "ready for hearing." These reports include medical reports, independent medical evaluations, and permanent/partial disability evaluations. Such evaluations take time to schedule with medical professionals and rely on the cooperation of the injured employee who must attend the evaluation or rating sessions. Delays in scheduling hearings and issuing evaluation decisions contribute to the overall delay in determining disability benefits.

The labor department should continue to improve its efforts to decrease the amount of time it takes to schedule and conduct hearings. It should investigate the possibility of imposing time limitations for medical

evaluations. It should also ensure that once a hearing is conducted, decisions are rendered within the 60-day period in accordance with Section 386-86.

***Compensation  
payments to claimants  
are frequently late***

Section 386-31 requires that the first payment to an employee for temporary total disability be paid no later than ten days after the employer is notified of the disability. Our review of workers' compensation claims found that first payments for temporary total disability were not made within the ten days required by law. In over half of the cases we sampled (65 percent), first payments were late. Exhibit 2.4 displays the results of our review.

**Exhibit 2.4  
Late Temporary Disability Payments,  
FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late	Avg. Delinquency
Department of Education	24	17	71%	18 months
Department of Human Resources Development	17	8	47%	1 month
Judiciary	11	7	63%	1 month
University of Hawaii	17	13	76%	2 months
Total	69	45	65%	8 months

We found several cases where the temporary disability payments or adjustments were made years after the employers were notified that the disabilities and the claims were accepted. In one case, the Department of Education took over 14 years to process a claimant's disability payment. We found two other cases where the Department of Human Resources Development and the Department of Education took over four years to process the temporary disability adjustments for injured workers. While these cases were the exception, the average delinquency for state agencies to process payment for temporary total disabilities cases was about eight months. The injured worker becomes a victim again of bureaucratic delays.

Workers' compensation managers state that the responsibility for processing temporary disability payments or adjustments is with the payroll section of the agency where the claim was initiated. One staff person at the Department of Education reported that there are insufficient resources and time to process temporary disability authorizations expeditiously. However, workers' compensation managers state in defense of delays that employees are still being paid their full salary

through the use of sick or vacation leave credits while awaiting their disability payments. However, if claimants deplete their accumulated sick and vacation leave credits before a decision is made, their only alternative is to take leave without pay.

Untimely temporary disability payments impact claimants by delaying benefits that are immediately needed. Furthermore, delays promote the accelerated use of sick and vacation leave credits that may not be available for future claimant needs. It could also affect the claimant's income tax liability negatively. Workers' compensation benefits are generally not taxable, so disability payments in lieu of taxable wages would normally reduce an employee's income tax liability in the year benefits are received.

Workers' compensation managers should be held responsible for timely payments to injured employees. While managers argue that obtaining timely payments is beyond their control, the State must nevertheless have someone responsible for each case. It is in the best interests of the claimants, agencies, and the State for managers to be clearly assigned the responsibility to efficiently process claims to timely closures.

***Year-end reports for claims are frequently late***

In a majority of the claims we reviewed, year-end workers' compensation reports (WC-3) were not filed on time. Section 386-95 requires employers to file this report to the director of labor by December 31 of each calendar year. This year-end report provides the labor department with information on work related injuries and workers' compensation amounts paid to injured employees. Untimely reports will distort the accuracy of data and financial information on claims reported by the labor department.

All four departments we reviewed submitted WC-3 reports after they were due. Exhibit 2.5 illustrates the results of our review.

**Exhibit 2.5**  
**Late Year-end WC-3 Reports, FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late
Department of Education	51	47	92%
Department of Human Resources Development	45	35	78%
Judiciary	31	31	100%
University of Hawaii	28	25	89%
Total	155	138	89%

Workers' compensation managers report that the statutory requirement for filing the WC-3 reports (December 31) is unreasonable. Compensation payment information for the calendar year is sometimes not available until late December and managers say that it is unreasonable to expect staff to complete and file the WC-3 reports by the end of December. Labor department officials generally agree with this argument; thus, they allow WC-3 reports to be filed by January 31 of the next year. Since the labor department believes that the deadline is unreasonable and has extended the due date, it should also seek to amend Section 386-95 rather than continue to violate the law.

***Closed claims are not reported on time***

We reviewed workers' compensation claims in the four agencies to determine if closed claims were reported to the labor department in a timely manner. Of the 26 closed claims we sampled, 13 claims or 50 percent of the final WC-3 reports were not submitted within the required 30 days after final payment had been made. The labor department uses this final report for statistical purposes, including data on open and closed claims and other financial information. However, late final reports affect the accuracy of this information. Exhibit 2.6 shows the results of our sample.

**Exhibit 2.6**  
**Late Final Reports (WC-3), FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Number Late	Percent Late
Department of Education	13	6	46%
Department of Human Resources Development	6	3	50%
Judiciary	1	1	100%
University of Hawaii	6	3	50%
Total	26	13	50%

In the Department of Human Resources Development, we found final reports submitted over 80 days late. In the Judiciary, we found a final report that was not yet filed four months after final payment was made. In the Department of Education, we found three cases that were closed despite payments still being owed to claimants. The education department's claims adjuster reported that he was instructed to close the claim and file the final WC-3 report although all payments had not yet been made to the claimant.



In the Judiciary we noted seven open cases that could have been closed. Judiciary employees report that they were waiting for final medical reports on these claims. However, one of the cases showed receipt of the WC-2 report (medical report) and final payment information in October and December 1999 respectively. Yet the case remained open as of June 2000.

Workers' compensation administrators should ensure that final reports for claims are filed within 30 days after final payment of compensation has been made. For management and legislative purposes, their record keeping should accurately reflect cases closed, together with completed payment information.

***Penalties are not  
assessed for Chapter  
386 violations***

The labor department, as the administrator of the workers' compensation law, is responsible for efficient and timely payments as prescribed by law. However, we found 282 violations of Sections 386-95 and 386-31, which allows for assessing additional fines and penalties for violations. If assessed, these fines would cost the four state agencies we reviewed up to \$1.3 million. However, the labor department assessed penalties of \$130 on only one of the cases. For violations of Section 386-95, which requires timely submittals of both WC-1 and WC-3 (annual and final) reports, the state agencies should have been fined up to \$5,000 per occurrence. For violations of Section 386-31, the agencies should have been fined up to \$2,500 per occurrence. The labor department has not been diligent in its efforts to assess these penalties. Only 71 fines, or about five fines per year, have been assessed since 1987 for various violations of Chapter 386.

The labor department's authority to assess fines is ambiguous because Chapter 386, HRS, and the Hawaii Administrative Rules (12-10-70) seem to contradict each other. Section 386-95 states that the director of labor *shall* fine an employer not more than \$5,000. Administrative rule 12-10-70 states that all penalties and fines authorized by Chapter 386 *may* be assessed by the director. It is unclear whether the assessment of a fine is mandatory or arbitrary.

Despite this ambiguity, the labor department has not monitored claims aggressively for violations. Labor department officials report that they lack resources to perform this function. They will only fine employers for late submittals if a substantiated complaint is filed by the claimant. The department does not monitor receipt dates of WC-1 reports to determine whether penalties should be assessed. In fact, the department's current computer system that holds information related to workers' compensation claims is not programmed to identify violations of Chapter 386. The labor department, being reactive rather than proactive, relies on complaints from claimants as a means to identify violations and assess penalties.

The fine or penalty provision of the law is one of the few instruments available to the labor department to enforce compliance and timeliness. Claimants have little recourse but to rely on the labor department's ability to investigate complaints and enforce the law in their pursuit of payments for authorized benefits. By not enforcing penalties, state employers and insurance carriers on whom claimants rely have no incentive to process workers' compensation claims efficiently. The labor department should establish a system that identifies violations of Chapter 386 through its computer system so that penalties can be assessed in compliance with the law. Under a no-fault system, claimants should expect fairness, not neglect and leniency, in the administration of the law.

---

## **State Workers' Compensation Managers Have Not Exercised Sufficient Controls To Ensure Prompt and Proper Payment of Compensation**

The workers' compensation law was intended to provide injured workers with timely and accurate benefits. To achieve this objective, the State needs an agency to oversee program operations and provide a forum for quick resolution of disputes. Hawaii's current administration of state workers' compensation claims processing is less than what is needed. While the labor department is responsible for the administration of the law, the management of claims operations is spread over several agencies as previously described. The coordination of claims is fragmented and controls are lacking to ensure prompt and accurate payment of claims. Payments remain outstanding and benefit calculations have errors. We also found that payments to providers for medical services exceed allowable amounts and are sometimes unwarranted and unjustified.

### ***Payments for disability remain outstanding***

In our review of workers' compensation claims, we found payments for authorized temporary total and partial disabilities were either unpaid or unprocessed. At the University of Hawaii (whose claims are managed by Constitution Services and the Department of Human Resources Development), one authorized claim has remained unpaid for about four months. At the Judiciary, we found one claimant's disability payment that was authorized in March 2000 was still unpaid as of May 2000.

The problem of non-payments was most severe at the Department of Education. We found a total of \$133,343 of authorized temporary total and partial disability payments still unprocessed. In one case, the claimant was waiting for over \$40,000 in unprocessed disability payments, while another claimant had over \$14,000 remaining to be processed. In total, we found 35 cases of employee claimants whose disability payments had not been issued or processed. In three of these cases, the claimants were casual hires for the department and did not earn vacation or sick leave credits. Thus, these employee claimants were placed on leave without pay and received no compensation while

awaiting their disability payments. We brought these 35 cases to the attention of department officials and noted that disability payments in three of the cases were processed the next day.

As a result of the department not paying or processing disability benefits, claimants are being denied their compensation as provided for under the law. Claimants who use their vacation and sick leave credits to receive full salary while waiting for disability benefits are unnecessarily depleting their earned vacation and sick leave credits. Claimants can retroactively correct the leave taken when disability benefits begin. However, we noted two cases in the Department of Education where the claimants were denied leave because their records did not accurately reflect the workers' compensation adjustment. In another case, the employee was a casual hire and ineligible to earn sick and vacation credits, but has been waiting over six years to receive disability benefits. These cases are isolated instances of poor claims processing at the high cost of individual hardship, but more significantly, they do not represent the no-fault spirit of the law. Indeed, the claimants become victims and hostages to poor claims administration, which is itself at fault.

Unprocessed workers' compensation benefits can also affect an employee's creditable service computation at the time of retirement. An employee's outstanding workers' compensation claim can affect the amount of sick leave credits remaining at the time of retirement, when years of service are computed. Sick leave credits can be added to service years in the computing of retirement benefits. Inaccurate sick leave credits can alter the computation of an employee's retirement pay. Again, poor claims management directly affects the employee claimant, not the employer. This runs contrary to the no-fault intent of the law.

The labor department is also responsible for ensuring that disability payments are processed timely. However, its current system does not track the timeliness of payments. Instead, the department relies on complaints from injured employees to track tardy disability payments.

Workers' compensation managers need to take a more active role in monitoring open claims and ensuring that disability payments are processed in a timely manner. This would include any follow-up with the department payroll offices to verify the status of disability payments. The labor department should also examine its current operations to identify ways to improve its monitoring of open cases so that all state agencies process claims in a consistent manner.

### **Errors and discrepancies in the calculation of disability payments have occurred**

We reviewed workers' compensation claims at the four agencies to ensure the accuracy of disability payments. We found some cases in

which mistakes were made in the calculation of disability payments that resulted in both underpayments and overpayments. In other cases, we found discrepancies between our calculation of disability compensation and those of the workers' compensation agency offices that could not be substantiated due to poor documentation. Exhibit 2.7 illustrates the results of our sample.

**Exhibit 2.7**  
**Claims with Errors or Discrepancies, FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Claims with Errors or Discrepancies	Percent with Errors or Discrepancies
Department of Education	26	4	15%
Department of Human Resources Development	29	14	48%
Judiciary	10	7	70%
University of Hawaii	20	6	30%
Total	85	31	36%

At the University of Hawaii, two claimants were underpaid by \$41 because the workers' compensation adjuster miscalculated the number of disability days. At the Judiciary, the computation of the average weekly wages for five claimants was not documented in the files. The average weekly wages calculated for these claimants by case managers differed from information reported on their WC-1 reports. Supporting documentation to justify the differences in the average weekly wages was lacking. In one case, we noted an annual difference of \$15,547 between the salary reported on the WC-1 and the salary used to calculate the average weekly wage. This discrepancy could result in the claimant receiving a \$24 overpayment for each day of disability if the annual salary is incorrect.

At the Department of Human Resources Development, one claimant was overpaid \$155 due to an error in calculating temporary disability. Another claimant was underpaid \$58 because the adjuster undercounted one disability day; another claimant was overpaid \$520 because of a calculation error.

At the Department of Education, we found a claimant was underpaid \$33 because the claims adjuster miscalculated the number of disability days. In another case, the workers' compensation office did not know that approximately \$1,395 in temporary disability payments was owed to a claimant. During our fieldwork, we brought this oversight to the attention of departmental office managers and payment was immediately forwarded for processing.

Errors in the calculation of disability payments have occurred due to mistakes by agency staff. Some errors occurred because of inadequate supervisory review. Other errors occurred in computing average weekly wages without proper justification to calculate the average weekly wage. Staff failed to use the WC-14 form that documents the claimant's past 52-week salary to calculate the average weekly wage.

Workers' compensation managers need to ensure the accuracy of the disability compensation calculations to avoid payment errors. Simple steps can be taken. To minimize calculation discrepancies, agencies should use the WC-14 report to determine the claimant's average weekly wage. Supervisory reviews are also a standard management procedure. Professional responsibility and respect for the claims process are public service expectations and good business practices.

***Payments for medical services often exceed allowable amounts***

The workers' compensation law provides injured workers with medical care, services, and supplies for the duration of the injury. Section 12-15-90(a) of the Hawaii Administrative Rules states that charges for medical services shall not exceed 110 percent of participating fees. These are fees prescribed in the Medicare Resource Based Relative Value Scale System Fee Schedule or the Medicare Fee Schedule.

We found that all agencies were careless in overpayments for medical services. We tested medical payments made to providers to determine if payments exceeded the allowable amount established by administrative rules. When comparing the amount paid to providers against the maximum allowable amount, we found that approximately 18 percent of the providers we sampled were overpaid. Exhibit 2.8 displays the results of our tests.

**Exhibit 2.8  
Overpayments for Medical Services,  
FY1994-95 - FY1999-00**

Department/Agency	Number Sampled	Claims with Overpayments	Percent with Overpayments
Department of Education	42	11	26%
Department of Human Resources Development	35	6	17%
Judiciary	27	5	18%
University of Hawaii	30	3	10%
Total	134	25	18%

In a claim managed by Constitution Services for the University of Hawaii, an adjuster used the wrong payment code that resulted in an

overpayment of \$80. At the Department of Human Resources Development, a physician was overpaid \$24 for an initial consultation session. At the Judiciary, a physician was overpaid \$111 by the adjuster who exceeded the maximum amount allowed per the medical fee schedule. We also found that the medical bill adjuster at the Judiciary was using an outdated fee schedule for clinical lab tests. Finally, the Department of Education overpaid a physician \$185 for consultation services.

Workers' compensation staff at the agencies failed to adjust medical invoices that exceeded the maximum amounts allowed per the medical fee schedule. Such carelessness resulted in excessive payments for medical services and wasted state resources. Again, such simple steps as internal reviews, use of current fee schedules, and verification of payment codes will result in improved accuracy in payments.

### **Some medical payments are unwarranted and unjustified**

We engaged the services of a consultant, Automatic Data Processing Integrated Medical Solutions (ADP), to assist our auditing of workers' compensation medical bills. ADP has extensive experience in providing medical bill auditing services to employers, insurers, third party administrators, and government agencies in Hawaii. ADP reviewed 108 medical bills containing 847 types of medical procedure line item charges from the four agencies we reviewed.

We found that numerous medical charges paid by state workers' compensation offices were unwarranted and unjustified. For the 108 medical bills reviewed, providers charged the State a total of \$75,259. After agency staff adjustments were made to these medical bills, the four agencies paid a total of \$54,912. In our review of these medical bills, we found that the agencies could have made further adjustments that would have saved the State an additional \$30,871 or 56 percent. Exhibit 2.9 details the overpayments made by the State.

ADP found the following types of inappropriate payments.

- Payments for improperly coded services,
- Payments for undocumented services,
- Payments for insufficiently documented services,
- Payments for services provided by unlicensed personnel or in an unlicensed facility,
- Payments for services in excess of the Medical Fee Schedule,
- Improper application of the Medical Fee Schedule, and
- Payments for services unrelated to the workers' compensation claim.

## Exhibit 2.9

### Medical Bill Overpayments, FY1994-95 - FY1999-00

Department	Total Charges Billed By Providers	Total Payments Made By State	Total Recommended Payments By ADP	Potential Overpayments by State
Department of Human Resources Development	\$36,150.18	\$25,910.71	\$12,056.88	\$13,853.83
Department of Education	\$21,630.71	\$14,487.61	\$6,355.53	\$8,132.08
University of Hawaii	\$7,506.39	\$7,066.20	\$2,278.10	\$4,788.10
Judiciary	\$9,971.81	\$7,447.59	\$3,350.76	\$4,096.83
Total	\$75,259.09	\$54,912.11	\$24,041.27	\$30,870.84

Source: ADP Integrated Medical Solutions; "Workers' Compensation Medical Bill Audit Summary For: State of Hawaii, Office of the Auditor."

Medical bills need to be reviewed and scrutinized. Billing errors need to be identified and corrected prior to making payment. Workers' compensation managers need to improve the quality of their medical bill review to ensure that payments do not exceed allowable amounts and are justified and adequately supported.

## Conclusion

Delays in the processing of workers' compensation payments will continue to exist unless the State takes an aggressive and proactive approach in addressing the problems. The timely submission of required reports along with prompt investigations and hearings are integral to the payment processing of disability benefits to injured employees. Without management controls and oversight by case managers for timeliness and accuracy, payments for workers' compensation benefits will continue to be late and inaccurate. Strengthening oversight and controls should be a top priority for the labor department and workers' compensation offices statewide.

## Recommendations

1. To ensure the timely payment of benefits to injured state employees we recommend that workers' compensation managers in the Department of Human Resources Development, Department of Education, University of Hawaii, Judiciary, and other state agencies:
  - a. Ensure that reports of industrial injury (WC-1) are submitted within the seven working day timeframe;

- b. Improve efforts to conduct claim investigations in a more timely manner and comply with the 30-day requirement for filing denial reports. Requests for extensions should be properly obtained prior to the end of the 30-day requirement;
  - c. Ensure that payments for disabilities are made in a timely manner and in accordance with Section 386-31, HRS;
  - d. Improve efforts to submit WC-3 reports in a more timely manner and in accordance with Section 386-95, HRS; and
  - e. Ensure that final reports for claims are filed within 30 days after final payments for compensation have been made.
- 2. The Department of Labor and Industrial Relations should address delays in processing workers' compensation payments by:
  - a. Reducing the amount of time it takes to schedule hearings including time limits for medical evaluations. It should also ensure that once a hearing is conducted, decisions are issued in a timely manner and in accordance with Section 386-86, HRS;
  - b. Seeking an amendment to Section 386-95, HRS, to require WC-3 annual reports to be filed by January 31 of the next year after the calendar year has ended; and
  - c. Establishing a system to identify violations of Chapter 386, HRS, and monitor and assess related penalties to ensure compliance with the law.
- 3. We recommend that state workers' compensation managers in the Department of Human Resources Development, Department of Education, University of Hawaii, Judiciary, and other state agencies improve efforts to pay benefits accurately and on time by:
  - a. Tracking and monitoring open claims and ensuring that payments are processed in a timely manner. This should include any follow-up with departmental payroll offices to verify that disability payments have been processed;
  - b. Ensuring the accuracy of disability compensation calculations by documenting the calculation of the claimant's average weekly wage through the use of the WC-14 report; and
  - c. Improving the review of medical bills to ensure that payments do not exceed allowable amounts and that the payments are warranted and are adequately supported.



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## Responses of the Affected Agencies

### Comments on Agency Responses

We transmitted drafts of this report to the Department of Labor and Industrial Relations, the Department of Human Resources Development, the Department of Education, the University of Hawaii, and the Judiciary on January 23, 2001. A copy of the transmittal letter to the Department of Labor and Industrial Relations is included as Attachment 1. Similar letters were sent to the Department of Human Resources Development, the Department of Education, the University of Hawaii, and the Judiciary. Responses of the Department of Labor and Industrial Relations, the Department of Human Resources Development, the Department of Education, the University of Hawaii, and the Judiciary are included as Attachments 2 through 6 respectively. Copies of workers' compensation rules and regulations submitted as attachments to the Department of Human Resources Development's response are not included in Attachment 3. The copies are on file at our office.

#### **The Department of Labor and Industrial Relations**

The Department of Labor and Industrial Relations disagreed with our finding that administrative decisions are not issued on time. In its response, the department stated that decisions may have been issued late if there was a computer breakdown or a waiver of the 60-day requirement by both parties involved. However, in our sample we compared the date of the administrative hearing to the date when the decision was issued, and in the cases identified as late, we found no waivers in the case files to explain the delays. We stand by our finding.

#### **The Department of Human Resources Development**

The Department of Human Resources Development stated that it takes our general point of the audit and will continue to make improvements in the administration of its self-insured workers' compensation program. The department also stated that there are a number of inaccuracies and misstatements in the report. First, the department commented that our exhibit displaying workers' compensation expenditures for State government (Exhibit 1.4) is grossly overstated for FY1997-98 (\$35,043,495). It then refers to a labor department report that shows the total expenditures for these claims to be \$17,369,530 for 1998. We note that our data was provided to us by the Department of Accounting and General Services and accounts for all workers' compensation expenditures for state employees. It appears that the labor department's figure does not include workers' compensation expenditures made to state employees from the Special Compensation Fund.

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The department also disagreed with some of our other findings. However, it noted that it was unable to elaborate further because the staff could not identify which cases we found to be in error. We note, however, that prior to commencing fieldwork for this audit the department was provided with a list of the claims we selected for review.

The department also disagreed with our finding that compensation payments are frequently late. In its response, the department noted that state law and rules allow employees to use accumulated sick and vacation leave credits to supplement workers' compensation wage loss up to a sum equal to their regular salary. However, this is exactly the point we make in the report. The use of sick and vacation leave credits in lieu of disability payment denies employees access to these leave credits. Furthermore, if an employee depletes all of his or her sick and vacation credits while awaiting disability payments, the employee must be placed on leave without pay.

#### **The Department of Education**

The Department of Education did not specifically respond to our findings. Instead, the department commented on problems encountered in its management of workers' compensation claims and described initiatives underway to improve on the process. The department also stated that it plans to address our recommendations by:

1. Ensuring that WC-1 reports are submitted within the seven day timeframe;
2. Improving efforts to conduct claim investigations in a more timely manner and comply with the 30 day requirement for filing denial reports;
3. Ensuring that payments for disabilities are made in a timely manner;
4. Improving efforts to submit WC-3 reports in a more timely manner;
5. Ensuring that final reports are filed within 30 days after the final payments for compensation have been made;
6. Tracking and monitoring open claims and ensuring that payments are processed in a timely manner;
7. Ensuring the accuracy of disability payments through the use of WC-14 forms; and
8. Improving the review of medical bills to ensure that payments do not exceed allowable amounts.

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### **The University of Hawaii**

In its response, the University of Hawaii offered comments to clarify information on its role in the administration of workers' compensation claims. It also noted that in most instances claimants are not without wages because they continue to receive either regular pay or sick/vacation pay. However, we stand by our earlier explanation of the importance of timely workers' compensation payments.

The University also noted that our statement concerning the employee's right to timely and accurate compensation is an oversimplification of the issue and does not consider other factors such as the cooperation and timely action of claimants. However, we note that the time requirement for making disability payments does not begin until the employer has accepted liability and authorized payment for disability.

### **The Judiciary**

The Judiciary agreed with several of our findings and recommendations. It also noted that there were certain areas in the report that overlooked or minimized (a) the significant efforts of the Judiciary to ensure that compensation claims are timely and accurate, and (b) the constraints such as the State's payroll system, under which the Judiciary and other state agencies must operate. The Judiciary also stated that it disagreed with other findings in the report. However, its response did not elaborate on these findings.

Finally, we made some minor changes to our draft report for the purpose of accuracy and clarity.

STATE OF HAWAII  
OFFICE OF THE AUDITOR  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813-2917



MARION M. HIGA  
State Auditor  
(808) 587-0800  
FAX: (808) 587-0830

January 23, 2001

**COPY**

The Honorable Leonard Agor, Acting Director  
Department of Labor and Industrial Relations  
Keelikolani Building  
830 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Agor:

Enclosed for your information are three copies, numbered 6 to 8 of our draft report, *Audit of the Workers' Compensation Payment Process in State Agencies*. We ask that you telephone us by Thursday, January 25, 2001, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Thursday, February 1, 2001.

The Department of Human Resources Development, Department of Education, the University of Hawaii, the Judiciary, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in cursive script, reading "Marion M. Higa".

Marion M. Higa  
State Auditor

Enclosures

BENJAMIN J. CAYETANO  
GOVERNOR



Leonard Agor  
Director

Audrey E. Hidano  
Deputy Director

STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

February 1, 2001

RECEIVED

FEB 5 9 48 AM '01

OFFICE OF THE AUDITOR  
STATE OF HAWAII

TO: The Honorable Marion M. Higa  
State Auditor  
*Leonard Agor*  
FROM: Leonard Agor, Director  
Department of Labor and Industrial Relations

SUBJECT: Audit of the Workers' Compensation Payment Process in State Agencies

Thank you for this opportunity to comment on your draft Audit of the Workers' Compensation Payment Process in State Agencies. The Disability Compensation Division of the Department of Labor and Industrial Relations (DLIR) administers the Workers' Compensation program to enable timely and fair provision of statutorily mandated benefits to our injured workers. The DLIR processes and adjudicates claims filed by employees and does not act as an employer. We appreciate any comments which identify concerns in our continuing efforts to improve the delivery of service we provide to the public. In response to the concerns raised in your Audit report the following is provided:

1. Finding: Decisions are not issued on time.

The report (Exhibit 2.3) indicates that in 18% of cases sampled, decisions were issued 60 days after the hearings. Our records do not indicate 18% late decisions. Drafts are due 30 days after hearing. Our records indicate that very few final decisions go out more than 60 days after the hearing. Decisions may have been issued after the 60 days when there is a computer breakdown or a waiver of 60 day requirement is agreed upon. Most of these waivers are the result of the agreement by the parties to allow post hearing information submission. The DLIR will be able to better track timeliness of decisions through its new computer system which will be able to match hearings date with decision date, with adjustments for waivers. The DLIR would appreciate identification of specific cases for which decisions were issued late so that we can analyze the problem and take appropriate corrective or preventive actions.

The Honorable Marion M. Higa

Page 2

February 1, 2001

The report also mentions delays in scheduling hearings. Upon receiving a request for hearing, the case is reviewed to determine whether a hearing is warranted and whether the necessary documents are in the file. While these reviews are conducted as expeditiously as possible, we must ensure preservation of the due process rights of all parties of interest. A fair decision requires that specific documents be in the file for consideration by the hearings officer. If the file is incomplete, the hearings review staff must obtain required documents prior to indicating the case ready for hearing. A hearing priority is determined based upon the issue being controverted. The hearings calendar is scheduled 2 months in advance and the notice of hearings is mailed 3 to 4 weeks prior to the hearing. The minimum time required to conduct a hearing would therefore be 3 months after the request for hearing is received.

2. Finding: Penalties are not assessed for Chapter 386 violations.

In an effort to improve compliance with WC-3 report filings, the DLIR penalized State, City and County of Honolulu and numerous insurance carriers in 1997 for failure to file WC-3 reports. These WC-3 reports indicate payments made by the self-insured employer/carrier to claimants and health care providers. During 1997, over 1,500 penalties were assessed for failure to file WC-3 reports. This resulted in significant improvement and responsiveness to DLIR requests for information. DLIR's objective is to establish compliance rather than assess penalties. We work hard with our external customers helping them understand our requirements and facilitating compliance. Penalties under section 386-95 are assessed when response is not received. The DLIR agrees that section 386-95 needs to be amended to change the due date from December 31 to January 31.

Penalties are also assessed against employers who fail to make timely payments pursuant to section 386-92. This process is primarily complaint driven. The DLIR does not have adequate audit staff to audit all insurance carriers to determine timeliness and accuracy of payments. However, WC-3 reports are reviewed annually to ensure accuracy of payments made to claimants during the report year. Reported underpayments are reconciled with the carrier to ensure proper payments to claimants. However, since the DLIR currently has only 3 clerks to review over 60,000 WC-3 reports, 100% audit and reconciliation is not possible.

We thank you for this opportunity to comment on your findings.

BENJAMIN J. CAYETANO  
GOVERNOR OF HAWAII



DAVIS K. YOGI  
DIRECTOR

JAMES E. HALVORSON  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

February 1, 2001

Ms. Marion Higa  
State Auditor  
Office of the Auditor  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813

RECEIVED  
FEB 2 11 23 AM '01  
OFC. OF THE AUDITOR  
STATE OF HAWAII

Dear Ms. Higa:

Thank you for the opportunity to review your draft report, Audit of the Workers' Compensation Payment Process in State Agencies. Periodic review of our payment processes will lead to greater efficiencies in the overall system.

We have completed our review of the draft. There are a number of misstatements and inaccuracies in the report. Our responses are found in Attachment A, along with other information that supports our viewpoints on the issues presented in the Audit Report.

There is one exhibit that grossly overstates the expenditures for State government [Exhibit 1.4 on page 7, reports a total of \$35,043,495, for FY 1997-98. There is no footnote as to where that number came from]. The Workers' Compensation Data Book compiled by the DLIR/Research and Statistics Office reported on page 10, that claims "processed with cost" in 1998 totaled \$17,369, 530.

We take your general point and will continue to make improvements in the administration of its self insured workers' compensation program. We are presently exploring the possibility that the internet can be utilized to shorten the period of time that it takes for departments to submit WC-1's (subject to medical privacy issues), so we are compliant with the statute. Please note in your report that DHRD administers the state's Workers' Compensation Program except DOE and Judiciary. However, we have no control over the departmental personnel and their performance in submitting WC-1's on time. We will address these issues with the departmental directors. We have monthly division plus quarterly claims

Ms. Marion Higa  
February 1, 2001  
Page 2

management branch meetings on cases concerning the executive branch and quarterly meetings with the University of Hawaii where we do discuss ways to shorten the time it takes to complete our investigations depending upon the complexity of the issues. We will also explore using the WC-14, to document the calculation of an injured employee's average weekly wage. Lastly, as mentioned in Attachment A, we will be asking DLIR to assist us in a post payment audit. Because the Auditor cites protection and confidentiality of its working papers, we cannot verify any of the Auditor's comments regarding workers' compensation overpayments. Thus, we will conduct our own sampling of our workers' compensation cases to determine if any overpayments have occurred.

Thank you again for the opportunity to respond to the Audit. We view this audit as a positive step towards making state government more efficient.

Sincerely,

A handwritten signature in black ink, appearing to read 'Davis K. Yogi', with a long horizontal flourish extending to the right.

DAVIS K. YOGI

Attachments

SWCD:VP



Response to the Audit of the Workers' Compensation Payment Process in State Agencies

Department of Human Resources Development • February 1, 2001

AUDIT CITATION OR INFERENCE

DHRD RESPONSE OR CLARIFICATION

Page 10, paragraph 1

The first step in the workers' compensation process is the filing of a report of industrial injury, a WC-1, by the employer with the labor department. The WC-1 contains important information about the employee's work-related injury/illness such as the injured employee's name, details of the injury or illness, time lost information, treating physician, and insurance. Section 386-95 requires the employer to submit a report to the labor department within seven working days after knowledge of a work-related injury. The injury must have resulted in the absence from work of more than one day or required medical treatment beyond ordinary first aid.

We are being held accountable but, DHRD can only set policy regarding the timely submission of WC-1's pursuant to statute. However, from your audit report it is apparent that the departments may not be in compliance. The departmental personnel officers do not report to us. We have reviewed our procedures to determine if we can require the departments to comply by adopting new guidelines which should expedite the process as well as making this goal a part of their merit pay.

Page 11, paragraph 4

Hawaii Administrative Rules require that employers who deny compensability for a claim submit a written report to the director of labor and the injured employee within thirty days. Failure to submit a written report results in the acceptance of the injury by the employer. The director may grant extensions for the filing of this report based on good cause.

Since we do not know which 12 claims are being referred to in Exhibit 2.2, we cannot determine if this is a widespread problem or a problem at all to cause us to change our procedures. The DLIR screens our denials very carefully. They take great pains to insure that we expedite our investigations. Therefore, there are checks and balances in our claims handling and regulatory oversight by the DLIR.

Response to the Audit of the Workers' Compensation Payment Process in State Agencies

Department of Human Resources Development • February 1, 2001

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AUDIT CITATION OR INFERENCE

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DHRD RESPONSE OR CLARIFICATION

Page 14, paragraph 1

Compensation payments to claimants are frequently late. Section 386-31 requires that the first payment to an employee for temporary total disability be paid no later than ten days after the employer is notified of the disability. Our review of workers' compensation claims found that first payments for temporary total disability were not made within the ten days required by law. In over half of the cases we sampled (64 percent), first payments were late. Exhibit 2.4 displays the results of our review.

Section 79-9 allows employees to use accumulated sick leave credits to supplement the workers' compensation wage loss replacement benefits to a sum equal to their regular salary. Title 14 expands this to allow the usage of accumulated vacation leave credits as well.

In light of the governor's statutory provision, we strongly disagree with the Auditor's findings that temporary disability payments were late in 8 out of 17 claims. The vast majority of injured employees continue to receive 100% of the salary after an accident. This exceeds the 66-2/3%, amount due and payable by the State pursuant to Section 386-31.

Response to the Audit of the Workers' Compensation Payment Process in State Agencies

Department of Human Resources Development • February 1, 2001

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AUDIT CITATION OR INFERENCE	DHRD RESPONSE OR CLARIFICATION
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Page 15, paragraph 3

In a majority of the claims we reviewed, year-end workers' compensation reports (WC-3) were not filed on time. Section 386-95 requires employers to file this report to the director of labor by December 31 of each calendar year. This year-end report provides the labor department with information on work related injuries and workers' compensation amounts paid to injured employees. Untimely reports will distort the accuracy of data and financial information on claims reported by the labor department.

The Auditor found that DHRD was late in submitting WC-3's in 35 out of 45 claims. This is misleading. Section 386-95 does require the submission of WC-3's on open claims on December 31 of each year (copy attached). However, by written DCD instruction, our deadline is January 31 of each year (copy attached). Once again, the DLIR is very diligent in insuring that we report accurately so that their statistics are reliable. If we were to adopt the Auditor's findings, we would have to double our work with a partial year-end report and another report in January for a complete and full reporting of our costs.

Response to the Audit of the Workers' Compensation Payment Process in State Agencies

Department of Human Resources Development · February 1, 2001

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AUDIT CITATION OR INFERENCE

DHRD RESPONSE OR CLARIFICATION

Pages 19 through 20

Errors and discrepancies in the calculation of disability payments have occurred. We reviewed workers' compensation claims at the four agencies to ensure the accuracy of disability payments. We found some cases in which mistakes were made in the calculation of disability payments that resulted in both underpayments and overpayments. In other cases, we found discrepancies between our calculation of disability compensation and those of the workers' compensation agency offices that could not be substantiated due to poor documentation. Exhibit 2.7 illustrates the results of our sample

The DLIR scrutinizes all benefit calculations and calls to our attention all errors so that corrections can be made. The audit identified three specific errors. However, because of the confidential nature of their work papers, we have no way of addressing the items included in the report. We would like to point out that if there are errors, we have a statutory and fiduciary duty to make appropriate corrections. The refusal of the Office of the State Auditor to identify which cases contain errors prevents us from taking corrective action.

Despite our belief that there are no errors that would have or could have been raised by claimants' attorneys, we will conduct a sampling to address the specter of overpayment that has been cast on this program.

Response to the Audit of the Workers' Compensation Payment Process in State Agencies

Department of Human Resources Development • February 1, 2001

AUDIT CITATION OR INFERENCE

DHRD RESPONSE OR CLARIFICATION

Page 21, paragraph 4

We found that all agencies were careless in overpayments for medical services. We tested medical payments made to providers to determine if payments exceeded the allowable amount established by administrative rules. When comparing the amount paid to providers against the maximum allowable amount, we found that approximately 18 percent of the providers we sampled were overpaid. Exhibit 2.8 displays the results of our tests.

Exhibit 2.8 indicates that there were overpayments in 6 out of 35 bills sampled. Please note that DHRD processes an average of 17,000 bills per year. The audit sample size is less than 1% of our bills. Since they have not identified either the bills that they reviewed or the bills reviewed by the consultant, we cannot respond in any meaningful way. However, again, we do intend to pull a random sampling of approximately 178 invoices and ask DLIR if they have staff available to conduct a post payment audit to identify any problems in our bill adjusting.

BENJAMIN J. CAYETANO  
GOVERNOR



PAUL G. LeMAHIEU, Ph.D.  
SUPERINTENDENT

**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

February 1, 2001

The Honorable Marion M. Higa  
State Auditor  
Office of the Auditor  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813-2917

RECEIVED

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OFFICE OF THE AUDITOR  
STATE OF HAWAII

Dear Ms. Higa:

Thank you for the opportunity to review and respond to the Audit of the Workers' Compensation Payment Process in State Agencies report to the Governor and the Legislature of the State of Hawaii. The Department of Education has the following comments:

DEPARTMENT OF EDUCATION-WORKERS' COMPENSATION SECTION  
BACKGROUND

Based on the Governor's Directive dated October 22, 1996, the risk management of workers' compensation claims for all injured Department of Education employees was transferred from the Department of Human Resources Development (DHRD) as of July 1, 1997. Continuous improvement in risk management has been the cornerstone of operations for the Department of Education, Division of Administrative Services, Workers' Compensation Section (DOE WC Section).

Staffing of the DOE WC Section was established with the primary objective of case management. The only personnel resources transferred from DHRD were four claims managers. There are currently insufficient resources to effectively handle the tasks of accounting and reconciliation. It is the Department of Education's position to continue to access and consult the external auditors, actuarial specialists, third party administrators and the Department's Information System Services Branch, to meet the performance goals identified by its staff and management. Moreover, these same sources will be consulted to implement the feasible recommendations identified by the State Auditor.

### SCOPE OF THE AUDIT

The State Auditor states (Chapter 1, page 8, paragraph 4) that the audit covered all open claims from 1995 to the present. While the Department of Education believes the auditor sampled significant data from claims filed between 7/1/97 and 12/99, it is significant to note that the DOE WC Section has attended to problems that were present when the transition occurred as well as implemented improvements.

Since its inception on July 1, 1997, the DOE WC Section addressed:

- Downloading computerized data from the DHRD's Comp 2000 risk management system to the DOE's Comp Plus system
- Reconciling computerized data with hard copy claim files
- Converting data for year 2000 compliance which included downloading computerized data from the Comp Plus system to the Renaissance system
- Implementing a reserve methodology
- Establishing policy for the Medical Privacy Act 7/1/01
- Developing a training program for school administrators and support staff
- Improving payment processes
- Creating staff development
- Maintaining daily operations
- Upgrading its risk management computer program and equipment

Future goals identified thus far to target operational improvement for the DOE WC Section include but are not limited to:

- Writing an operations manual
- Upgrading the risk management computer program (scheduled for February and March 2001). Subsequent upgrades are planned, they are scheduled as the availability of manpower and resources exists  
Working with auditors, actuaries, third party administrators, and computer programming personnel to improve operations to include compliance, where feasible, with the recommendations by the State Auditor's report
- Cultivating working relationship with other workers' compensation programs
- Identifying lines of responsibility and accountability within the DOE WC Section

These future goals will address the recommendations of the State Auditor in the following manner:

1a. Ensure that reports of industrial injury (WC-1) are submitted within the seven working day timeframe.

An operations manual will provide employees in the DOE WC Section the guidance to reach out to the schools and offices to submit reports timely. Investigating “on-line” reporting has already been discussed as a means to reduce and possibly eliminate the number of delinquent reports. Experts and other workers’ compensation programs can provide the experience and “know-how” to improve reporting now and in the future. By identifying lines of responsibility and accountability within the DOE WC Section, efforts to promote timely reporting will be focused and efficient.

1b. Improve efforts to conduct claim investigations in a more timely manner and comply with the 30-day requirement for filing denial reports. Requests for extensions should be properly obtained prior to the end of the 30-day requirement.

With the introduction of an operations manual, the steps to correctly perform an investigation and request extensions will be clear. The planned upgrades to the Renaissance program are aimed at improving requests for extensions and completing investigations promptly. Consultation with experts will also go a long way in improving the investigative process. Lines of responsibility and accountability will address any deviation from improper investigative techniques and delinquency in requesting extensions.

1c. Ensure that payments for disabilities are made in a timely manner and in accordance with Section 386-31 HRS.

An operations manual will allow all staff to understand their role and stress the importance in prompt action to address disability payments. Expert consultation will bring innovative ideas to improving the work flow and performance for the DOE WC Section and DOE Payroll.

1d. Improve efforts to submit WC-3 reports in a more timely manner and in accordance with Section 386—95 HRS

The Department of Education supports an amendment to 386-95 to allow WC-3 reports to be filed by January 31 of the following year.



1e. Ensure that final reports for claims are filed within 30 days after final payments for compensation have been made.

Future goals, especially in the area of computerization will contribute greatly to improving the overall process to move claims quickly and accurately to claim closure.

3a. Tracking and monitoring open claims and ensuring that payments are processed in a timely manner. This should include any follow-up with departmental payroll offices to verify that disability payments have been processed.

Discussion and planning between the DOE WC Section and DOE Payroll will continue toward implementing a feasible plan of action to address the backlog with existing resources. Future goals will be an integral part of the discussion and planning.

3b. Ensuring the accuracy of disability compensation calculations by documenting the calculation of the claimant's average weekly wage through the use of the WC-14 report.

The implementation of a time and attendance program is in progress toward making the production of the WC-14 report a customary practice.

3c. Improving the review of medical bills to ensure that payments do not exceed allowable amounts and that the payments are warranted and are adequately supported.

The Department plans to seek funding for a full time "in-house" bill auditor. Currently, a bill auditor is contracted on a part time basis. The DOE WC Section has found that this is an area in which improvement is needed.

With respect to the auditor's specific report findings, we offer the following comments:

#### DELAYS IN CLAIMS PROCESSING HAMPER TIMELY BENEFIT PAYMENTS

#### INJURY REPORTS ARE NOT FILED IN A TIMELY MANNER

The DOE WC Section realizes that filing a WC1 late delays prompt benefit payment and claim investigation. In a proactive move to reduce the number of late filings, the DOE WC Section devotes a portion of a clerk's workday to call delinquent schools and programs when correspondence, medical reports and invoices are received before the Employer's Report of Industrial Injury.

In July 1998, the WC Section wrote and distributed to DOE schools and offices the Workers' Compensation Instructional Packet and Forms. In each year since 1998, the DOE WC Section sends a team of experienced claims managers and administrators to train school administrators and support staff in reporting workers' compensation claims. The training period is also used to update staff and administrators on recent developments in workers' compensation, i.e., the 2000 medical privacy legislation effects on WC.

In October 2000, the WC Section worked with the Information System Services Branch (ISSB) to develop a report to identify those schools and offices filing reports after seven days. It is expected that the report will be available in mid-February 2001. A system to distribute the report will be established after the report has been verified. The purpose of the report is to provide information to troubleshoot in those areas where delinquent reporting exists.

A dialog with the ISSB has also been ongoing to investigate the possibility of "on-line" reporting. Equipment deficiencies and other cost factors hamper immediate implementation of this plan.

#### INVESTIGATIONS OF DENIED CLAIMS ARE LENGTHY

The DOE WC Section has attempted to adapt its computerized risk management program known as Renaissance to facilitate timely requests for extension of investigation in denied claims. As the date of the next upgrade of Renaissance approaches, discussion to develop a report to identify all denied claims will facilitate management's monitoring of compliance with requesting an extension for further investigation of the claim. In the meantime, case managers will be reminded to conduct investigations and where necessary, extensions on a timely basis.

#### HEARING PROCESS IS ALSO EXTENSIVE AND DECISIONS ARE NOT ISSUED ON TIME

When the period to issue a decision beyond the 60-day time period is indicated, it is determined during the hearing. Oftentimes the decision to delay a decision is by mutual agreement and in the best interest of all parties to do so.

#### YEAR-END REPORTS FOR CLAIMS ARE FREQUENTLY LATE

The DOE WC Section supports an amendment to 386-95 to allow WC-3 reports to be filed by January 31 of the next year. This will allow claims managers the time to obtain more accurate benefit information by December 31.

#### CLOSED CLAIMS ARE NOT REPORTED ON TIME

Scheduled for February 2001 is the upgrade of the Renaissance system. At that time, integration with the DOE WC Section's payment program will begin. Therefore, it is appropriate after successful computer integration to develop a procedure to facilitate prompt closure of claims 30 days after final payment has been made.

Wage loss replacement benefit reconciliation also plagues timely closure of claims. It is prudent that the DOE Payroll office increase efforts to improve timely benefit reconciliation to facilitate timely closures.

In 1998, the DOE Payroll administration proposed a tracking system to improve accountability for payment of claims. The Department of Education plans to address the development of improved tracking in its new Human Resources time and attendance program to facilitate prompt wage loss payments and consequently prompt case closure.

Also proposed in 1998, was the possibility of seeking additional resources to adequately perform accounting and reconciliation tasks for workers' compensation claims. As mentioned earlier, no other positions were transferred to the Department of Education from the Department of Human Resources Development except 4 claims managers. To date, efforts to obtain additional resources to handle accounting and reconciliation functions have not been successful. Efforts to secure a sufficient number of skilled staff will continue.

#### STATE WORKERS' COMPENSATION MANAGERS HAVE NOT EXERCISED SUFFICIENT CONTROLS TO ENSURE PROMPT AND PROPER PAYMENT OF COMPENSATION

#### PAYMENTS FOR DISABILITY REMAIN OUTSTANDING

The Department of Education recognizes the immediate need for improvement in this area. At present, the Department is reviewing its capacity to address the backlog and will work toward resolving all the backlog of wage loss replacement reconciliation to include a time frame of completion.

A long-term solution lies in the successful implementation of the time and attendance program being developed for the Department of Education. Implementation of the time and attendance system is expected to be fully operational by 2004.

#### CLAIMS WITH ERRORS OR DISCREPANCIES

The DOE Payroll Office assists with advising the claims managers of any errors or discrepancies. It is expected that when the time and attendance program is implemented at the Department of Education, it will contribute to minimizing the number of errors and discrepancies. As further development in the Renaissance program is expected, the programmers will be consulted to suggest ways to reduce the incidence of error or discrepancy.

Obtaining a WC14 for accurate information of the Average Weekly Wage can probably become common practice as the DOE implements its time and attendance system. A member of the WC Section has volunteered to join the team planning for implementation of the time and attendance system. It has been suggested that the time and attendance program have the capability to routinely obtain WC14 information. Direct access to the information has also been discussed with the program administrator.

#### PAYMENTS FOR MEDICAL SERVICES OFTEN EXCEED ALLOWABLE AMOUNTS

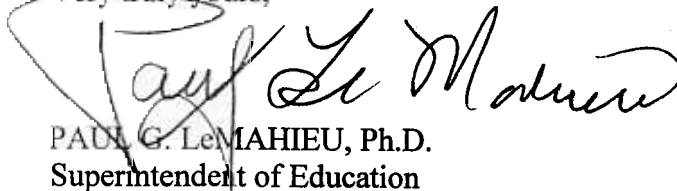
When the DOE WC Section began operations it attempted to provide consistent methods of bill auditing. Bill auditing was assigned to a single bill auditor with experience in workers' compensation bill auditing.

The findings presented by the State Audit Report suggest that attention to bill auditing is essential to appropriate fiscal management. The DOE WC Section agrees that a consistent method of bill auditing by a qualified and/or licensed auditor serves to achieve this objective. As discussed earlier, the DOE WC Section will seek funding for a full-time bill auditor or bill audit service provider to reach a consistent method of adjusting and to realize the proper cost savings.

The Honorable Marion M. Higa  
February 1, 2001  
Page 8

Thank you for your consideration of the information presented in our response. Please contact Winston Towata, Personnel Specialist, Workers' Compensation at 587-4080 if you have any questions or concerns.

Very truly yours,



PAUL G. LeMAHIEU, Ph.D.  
Superintendent of Education

PLeM:cs

c: Paula Yoshioka, Assistant Superintendent  
Sandra McFarlane, Personnel Director  
Chris Ito, Accounting Director  
Edwin Koyama, Internal Auditor  
Winston Towata, Personnel Specialist

January 31, 2001

Ms. Marion M. Higa  
State Auditor  
465 S. King Street, Room 500  
Honolulu, HI 96813-2917

RECEIVED  
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OFC. OF THE AUDITOR  
STATE OF HAWAII

We are in receipt of your draft report, *Audit of the Workers' Compensation Payment Process in State Agencies*, and welcome the opportunity to comment. It is helpful to the University of Hawai'i that the audit provides yet another performance assessment of the two third-party administrators currently contracted by the University for managing its workers' compensation claims:

- State Department of Human Resources Development for claims arising from injuries which occurred prior to July 1, 1999.
- Constitution State Service Company for claims arising from injuries occurring effective July 1, 1999.

Should you or your staff have any questions on the University's comments enclosed herein, please contact Mr. Eugene S. Imai, Senior Vice President for Administration, at 956-8903 or [eimai@hawaii.edu](mailto:eimai@hawaii.edu).

Sincerely,

Kenneth P. Morton

Kenneth P. Mortimer  
President, University of Hawai'i and  
Chancellor, University of Hawai'i at Mānoa

c: Senior VP Eugene Imai

University of Hawai'i Response to  
State Auditor's Draft Report:  
***Audit of the Workers' Compensation Payment Process in State Agencies***  
January 31, 2001

1 Page 2, ¶1:

*In addition, Chapter 386 does not allow claims for mental stress resulting solely from disciplinary action taken in good faith by the employer.*

It should be noted that good faith is not the sole criterion by which claims of injury by mental stress can be disallowed. Section 381-3(c), HRS, also imposes the just cause standard as cited in collective bargaining agreements. Thus, labor relations and the grievance process become intimately intertwined with the claims adjustment process.

2. Page 3, ¶2 footnote and ¶3:

*\*Although the University of Hawai'i is considered a non-centralized agency, DHRD does manage a portion of the workers' compensation cases.*

*The agencies listed above are commonly referred to as non-centralized agencies because their claims are managed either by an independent carrier or by in-house staff rather than the State Workers' Compensation Division.*

It should be clarified that, although the University is considered a non-centralized agency, DHRD competed for and was awarded a contract to manage UH workers' compensation (WC) cases arising from injuries occurring prior to July 1, 1999. Further, the non-centralized agencies' claims are managed either by in-house staff, a third-party administrator (TPA), or insurance carrier.

3. Page 3, ¶4:

*An "open case" is a claim pending determination of compensability or compensation; an open case is also one in which medical or other payments are currently being made.*

We feel that the statement would be more accurate in reverse order. An "open claim" is a claim in which medical or other payments are currently being made. A claim pending determination of compensability is also considered an "open claim."

4 Page 4, Exhibit 1.1 note:

*University of Hawai'i claims are managed by both DHRD and Constitution State Services Company (CSSC). CSSC manages claims opened after July 1, 1999, while DHRD manages claims opened prior to July 1, 1999.*

DHRD is contracted to manage UH claims arising from injuries which occurred prior to July 1, 1999, while CSSC is contracted to manage UH claims arising from injuries occurring effective July 1, 1999. The injury date, and not the claim filing date, is the determinant of which TPA manages the claim; e.g., an injury occurring in June 1999 but not reported until July 1, 1999 will be managed by DHRD and not CSSC despite the injury not being reported until July 1, 1999.

5. Page 5 footnote:

*\*The case manager, or workers' compensation manager, may be a staff person of the employing agency, the State Workers' Compensation Division of the Department of Human Resources Development, or a private company employed to manage claims.*

We feel it would be more accurate to characterize the claims manager as in-house staff, DHRD, third-party administrator (which could be either a public or private contractor), or insurance carrier. This would then encompass both of DHRD's roles in servicing centralized State agencies while, at the same time, servicing non-centralized State agencies under TPA contract.

6. Page 6, ¶1

*Case managers are either from the State Workers' Compensation Division for centralized agencies or from the non-centralized agency workers' compensation or personnel offices. In some cases, non-centralized agencies...contract with private carriers or organizations to manage their workers' compensation claims.*

Again, we feel it would be more accurate to characterize contracted claims managers as TPAs (which could be either public or private contractors) or insurance carriers. The inclusion of "TPA" would acknowledge DHRD's role in servicing non-centralized State agencies under contract while, at the same time, servicing centralized State agencies.



7. Page 6, ¶3:

*In FY 1999-00, the DHRD was appropriated...less than...in FY 1995-96. This significant decrease was primarily due to the reduced number of workers [sic] compensation claims filed and the transfer of funds from the DHRD to the UH...These three non-centralized entities pay their own...claims with transferred funds.*

We are concerned that these statements might leave the impression that the reduction to DHRD's appropriation can be accounted for by the appropriation transfers to UH and other non-centralized agencies, and that such transfers were sufficient based on the reduced number of claims filed. In fact, the Executive FB 1997-99 budget requested the transfer of approximately \$2 million annually in general fund appropriations from DHRD to UH for its WC claims. However, appropriations to UH materialized at roughly \$1 million annually, requiring that the University internally reallocate general funds from other priorities to meet the WC appropriation shortfall. We are not aware of the disposition of funds deleted in the appropriation transfer to UH.

8. Page 9, ¶2

*These problems illustrate that employees' rights to timely and accurate compensation are not being upheld.*

We feel this is an oversimplification of the issue. Timeliness and accuracy are indeed important to the payment of benefit entitlements. However, there are many factors involved, including the cooperation and timely action of claimants. Without any mention of the complexities of paying benefits through a payroll system, the conclusion that "state benefits are neither timely nor accurate" is misleading.

9. Page 14, ¶2:

*Compensation payments to claimants are frequently late.*

TTD and TPD payments are intended as wage loss replacement benefits. In most instances, claimants are not without wages. They continue to receive either regular pay or sick/vacation pay. The continued receipt of regular pay is a phenomenon of early payroll deadlines. In either case, the claimant is not without income from the Employer.

10. Page 15, ¶4:

*Untimely reports will distort the accuracy of data and financial information on claims reported by the labor department.*

- ▶ We feel that payment to claimants is critical (as cited in other sections of the report). We have strived, and will continue to strive, to meet all deadlines.

11. Page 18, ¶3:

*At the University of Hawai'i (whose claims are managed by Constitution Services and the Department of Human Resources Development), one authorized claim has remained unpaid for about four months.*

Four months is an excessive delay if the payment was in fact warranted. The University of Hawai'i does not unduly withhold payment of an authorized claim. As the report does not identify the claim, it is difficult to respond to this charge.



**Office of the Administrative Director of the Courts** THE JUDICIARY • STATE OF HAWAII  
417 SOUTH KING STREET • ALI'IOLANI HALE • HONOLULU, HAWAII 96813-2902 • TELEPHONE (808) 539-4900 • FAX 539-4855

**Michael F. Broderick**  
ADMINISTRATIVE DIRECTOR

**Clyde W. Namu'o**  
DEPUTY ADMINISTRATIVE DIRECTOR

RECEIVED

FEB 48 PM '01

OFF. OF THE AUDITOR  
STATE OF HAWAII

February , 2001

Ms. Marion M. Higa  
State Auditor  
Office of the Legislative Auditor  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813

Dear Ms. Higa:

Thank you for the opportunity to review and comment on your report "Workers' Compensation Payment Process in the State of Hawai'i." We appreciate the efforts of your staff and the contract auditors, and welcome the findings. The report was helpful in identifying those areas where improvements in the workers' compensation process could be made.

The Judiciary is pleased by the Auditor's acknowledgment of the significant 21 percent decrease in total State workers' compensation expenditures between FYs 1995 and 1999, and the 15 percent decrease in total workers' compensation cases processed between calendar years 1994 and 1998. We are also gratified by the Auditor's recognition that there were no cases where the Judiciary overpaid workers' compensation payments.

In recent years, the Judiciary has taken steps to streamline the workers' compensation process and reduce costs. Specifically, we eliminated three steps and the involvement of eight division fiscal offices in processing these cases. Further, the Judiciary now utilizes a private company to audit all medical bills over \$1,000 and other selected medical bills. This process, in conjunction with our own review, has reduced billed amounts by 16 percent.

We agree with several of the Auditor's findings and recommendations. However, there are certain areas that we believe overlook or minimize (a) the significant efforts made by the Judiciary to ensure that compensation claims are accurate and timely, and (b) the constraints, such as the State's payroll system, under which the Judiciary and other State agencies must operate. There are other findings with which we respectfully disagree.

***New Procedures In Place  
To File WC-1 Reports  
Within Seven Days***

On May 24, 2000, the Judiciary amended its Personnel Manual of Policies and Procedures to improve the timeliness in filing the WC-1 report. Under this amendment, the supervisor, upon receipt of the Employee's Report of Industrial Injury from the employee, shall immediately forward it by hand delivery or fax to the personnel clerk who, in turn, shall fax it within 24 hours to the Personnel Office - Workers' Compensation Branch. The Workers' Compensation Branch will then prepare and file the WC-1 report. Since making that change, all WC-1 reports have been filed timely.

***Initial Compensation  
Payments Are Timely***

The Judiciary and other State agencies are on a semi-monthly payroll system, and payroll data must be submitted 15 to 18 days prior to the pay date. Therefore, employees are receiving workers' compensation disability payments as soon as they can be processed by and under the State's current payroll system.

***Judiciary Agrees With The  
Need To Amend Law  
Regarding Filing WC-3  
Reports***

Pursuant to the Disability Compensation Division's administrative memorandum, the Judiciary files year-end reports (WC-3 reports) by January 31 of each year. The Judiciary met this deadline in each of the cases examined by the Auditor. Because of the conflict between State law and the Disability Compensation Division's administrative memorandum on the filing of these WC-3 reports, we understand that the Department of Labor and Industrial Relations will seek an amendment to Section 386-95, HRS, to allow these reports to be filed by January 31 each year. The Judiciary agrees with the need for such an amendment.

***The Judiciary's Disability  
Payments Are Timely***

The Auditor found that in only 1 of 34 Judiciary cases, payment was made after 30 days. In that particular case, the Judiciary: (a) accepted liability for this case on March 29, 2000; (b) obtained all necessary documentation to substantiate dates of disability and medical treatment for the claimant, and to adjust the leave record card, by the end of the third week in April; and (c) made the disability payment on May 20 (the first payday for the month of May). May 20 was the first

possible pay date that the claimant could feasibly be paid in accordance with the State payroll system after the resolution of all matters.

***Judiciary Has Procedures In Place To Ensure Correct Calculation Of Workers' Compensation Payments***

The Judiciary has procedures in place to ensure the timely processing and correct calculation of workers' compensation payments. In the exit interview, the Auditor's staff indicated that the Judiciary had no errors in calculations or overpayments.

The audit report does cite "discrepancies." These discrepancies did not affect the correct payment to the employee, and were related to documentation in the file showing differences between the estimated average weekly wage and the actual average weekly wage. The WC-1 forms are filed with the estimated average weekly wage to ensure timely processing of the forms. When actual payroll data for the year is received from payroll, the Workers' Compensation Branch calculates the correct average weekly wage and enters it on the Form 09 disability worksheet in the case file. When the document that actually initiates payment is forwarded to payroll, payroll recalculates the average weekly wage to ensure correctness.

Relative to the specific case cited by the Auditor regarding a potential overpayment of \$24 per day, no such overpayment occurred. The \$15,547 was the difference between the estimated annual salary shown on the WC-1 and the actual annual salary reported by payroll. Since the actual salary amount reported by payroll was used to calculate the average weekly wage, there was no overpayment.

***Judiciary To Evaluate Viability Of Outside Consultant***

The Judiciary has made every effort to ensure that payments to providers are appropriate, including using the Judiciary's in-house staff and an outside consultant to review selected bills and all bills over \$1,000. However, based upon the information presented in the audit report, the Judiciary will evaluate the viability and cost effectiveness of retaining an outside consultant to review all medical charges, regardless of the amount of the bill.

Again, we sincerely appreciate the efforts of your staff in identifying areas warranting further attention. The Judiciary is committed to improving the timely and accurate processing of workers' compensation payments on behalf of and in the best interests of the State, the Judiciary, and its employees.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael F. Broderick". The signature is fluid and cursive, with a large, stylized initial "M".

Michael F. Broderick  
Administrative Director of the Courts